

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4400 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No

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SHARDABEN W/O DIRA CHAKA KOLI

Versus

STATE OF GUJARAT

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Appearance:

MS SUBHADRA G PATEL for Petitioner

Mr. Nigam Shukla, learned Addl.P.P.for the respondents.

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 02/11/96

ORAL JUDGMENT :

1. This Special Civil Application is directed against the detention order dated 27-4-96 passed by the District Magistrate, Rajkot detaining the petitioner under the provisions of Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act'). The detention order was executed on the same day i.e. on 27-4-96 and since then the petitioner is under

detention lodged at Central Prison, Ahmedabad.

2. This Special Civil Application was filed in this court on 26-6-96 and on 27-6-96 Rule returnable on 30-7-96 was issued. So far neither any reply has been filed on behalf of the respondents nor any affidavit has been filed by the detaining authority.

3. The grounds enclosed with the detention order show that 4 criminal cases were registered against the petitioner under the Bombay Prohibition Act. Besides these cases, the detaining authority has found that the petitioner is engaged in all sorts of anti social activities and that a Chapter case had also been registered against the petitioner in which she was made to execute a bond for good conduct. Four witnesses have also made statements against the petitioner about her bootlegging activities. The detaining authority has found that the detenu is a bootlegger and that she is engaged in anti social activities and further that it was necessary to pass the detention order so as to prevent her from continuing with her anti social activities of bootlegging. Accordingly the detention order was passed.

4. The learned counsel for the petitioner has challenged the detention order inter alia on the ground that the allegations levelled against her even if taken to be true do not amount to a case of breach of public order and it is at the most a case of breach of law and order and, therefore, the detention order can not be sustained in the eye of law.

5. In view of the reasons given in the decision dated 4-10-96 in Special Civil Application No.3879/96 I am inclined to hold that in the facts and circumstances of this case, the detention order has been passed not for the reasons which can be said to be germane to the breach of public order and at the most it can be said to be a case of breach of law and order. The detention order, therefore, deserves to be set aside on this ground alone.

6. Accordingly the Special Civil Application is allowed and the impugned detention order dated 27-4-96 passed by the District Magistrate, Rajkot is hereby quashed and set aside and the petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set her at liberty forthwith, if not required in any other case. Rule is made absolute.

